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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/830,005	04/21/2001	Phillip G. Spaniol	FT0002R	9406

7590 04/05/2005  
Kevin D. Kaschke  
3105 King Alford CT  
St. Charles, IL 60174

EXAMINER

UNDERWOOD, DONALD W

ART UNIT	PAPER NUMBER
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3652

DATE MAILED: 04/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/830,005

Applicant(s)

SPANIOL ET AL.

Examiner

Donald Underwood

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08/30/04.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-60 is/are pending in the application.
- 4a) Of the above claim(s) 36-60 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☒ Claim(s) 31-35 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04/21/01 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **Detailed Action**

1. The drawings are objected to under 37 CFR 1.84. Particularly, the drawings are not readable and the characters do not have satisfactory reproduction characteristics. For examples see figures 1, 2, 125, 126. Correction is required. The introduction of new matter should be guarded against.
2. The claims in this case are the claims filed in the preliminary amendment filed 09/02/03 (claims 1-60) and amended in the response filed 08/30/04 (claims 1-35).
3. Claims 36-60 withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 12/18/03.
4. The oath references PCT/US 98/18376 and the specification, page 1, references PCT/US 97/15574. Clarification is required.
5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.
6. Claims 2-10 and 14-26 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Regarding claims 2-10, it is unclear how the controller determines the data in each claim and how determining this data controls the equipment.

Regarding claims 14-26, it is unclear how the controller controls the desired functions and/or modules in each of these claims.

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 1, 5, 7, 8, 10, 11 and 25-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vellidus et al.

While Vellidus uses his control on a harvesting machine, it would have been obvious to one having ordinary skill in the art at the time of applicants' invention to use such a system on any type of farm equipment including bale equipment particularly in reference to a baler in Vellidus, column 1, lines 43-55.

10. Claims 1, 4, 6-11 and 25-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hale et al.

It would have been obvious to one having ordinary skill in the art at the time of applicants' invention to use the system in Hale on a baler in view of Hale's statement in the Abstract "for an agricultural vehicle such as a combine, planter or cultivator".

11. Claims 1-15 and 17-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over the known baler disclosed by applicants in lines 22-31 on page 1 of their specification or newly cited Lundahl et al in view of Vellidus et al and/or Hale et al.

The known baler is manually operated as is the baler in Lundahl. Each baler is disclosed as containing a pick up, baler and accumulator.

Lundahl et al and Vellidus disclose automated systems as claimed by applicants for farm equipment.

It would have been obvious to replace the controls in the known baler or in Lundahl with control as claimed in view of the automatic controls in Vellidus and/or Hale since it would involve only routine skill to replace manual means with mechanical or automatic which accomplishes the same result. See in re Venner, 120 USPQ 192.

12. Claims 31-35 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

13. Applicants' arguments have been carefully considered but are moot since they are directed towards rejections not brought forward in this Office action.

14. Any inquiry concerning this communication should be directed to D. Underwood at telephone number 703-308-1112.

Underwood/vs  
March 29, 2005

*D. Underwood 03/30/05*  
DONALD W. UNDERWOOD  
PRIMARY EXAMINER